

AMERICA'S  
PUBLIC  
TELEVISION  
STATIONS

EX PARTE OR LATE FILED

February 10, 2000

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FEB 11 2000

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

ORIGINAL

Re: Ex Parte Filing MM Docket No. 95-31  
Reexamination of the Comparative Standards for Noncommercial  
Educational Applicants

Enclosed here within is an ex parte filing in the above-captioned proceeding.

Respectfully submitted,

  
Lonna Thompson  
Director of Legal Affairs

1-2-00 042

GLENN POSHARD  
19TH DISTRICT, ILLINOIS

107 CANNON HOUSE OFFICE BUILDING  
(202) 225-5201

COMMITTEES  
PUBLIC WORKS AND  
TRANSPORTATION  
SMALL BUSINESS

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-1319**

**COPY**

July 21, 1998

**RECEIVED**

JUL 27 1998

OFF. OF BROADCASTING

DISTRICT OFFICES:

NEW ROUTE 13 WEST  
MARION, IL 62959  
(618) 993-8532

201 EAST NOLEN STREET  
WEST FRANKFORT, IL 62896  
(618) 937-6402

363 SOUTH MAIN STREET  
DECATUR, IL 62523  
(217) 362-9011

600 AIRPORT ROAD  
MATTOON, IL 61938  
(217) 234-7032

444 SOUTH WILLOW STREET  
EFFINGHAM, IL 62401  
(217) 342-7220

P.O. Box 818  
801 WEST 9TH STREET  
MT. CARMEL, IL 62863  
(618) 262-7723

The Honorable William E. Kennard  
Chairman  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

Dear Chairman Kennard:


I am writing to express my concern regarding a proposal currently under consideration by the Federal Communications Commission (FCC). Specifically, I have been made aware that the FCC may adopt a policy under which frequencies would be allocated on the basis of auctions, with frequencies being awarded to the highest bidder. I respectfully urge you to refrain from accepting such a policy, as it would seriously disadvantage the public broadcasters that serve my constituents and Americans in every congressional district.

I have a great appreciation for the important public service provided by not-for-profit, educational broadcasters. Unfortunately, most such broadcasters would not be in a position to compete with commercial broadcasters if the FCC were to implement a frequency auction system and would thereby be effectively denied access to non-reserved frequencies. Although I realize that there are certain reserved frequencies for educational stations, the demand for these is high and their availability is often insufficient to meet the needs of public broadcasters. Moreover, there are no reserved frequencies at all on the AM band.

One alternative to the frequency auction proposal is to exempt non-commercial, educational institutions from being required to offer a bid. Under this alternative, the FCC would deem such an applicant equal to the highest commercial bidder and would be required to award the frequency to the non-commercial applicant if it is found that it would better serve the public interest. This proposal would allow the Commission to evaluate frequency applications based on service to the public and diversity in the marketplace in addition to financial concerns.

Once again, I appreciate your attention to this important issue, and I know you share my interest in supporting the efforts of America's public broadcasters. If there is any way I may be of service as you continue to consider this matter, please do not hesitate to contact me.

Sincerely,



Glenn Poshard  
Member of Congress

GP/ken

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## United States Senate

COMMITTEE ON APPROPRIATIONS  
WASHINGTON, DC 20510-6025

June 12, 1998

Honorable William Kennard  
Chairman, Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

RE: MM DOCKET No. 97-234  
GC DOCKET 92-52  
GEN DOCKET 90-264

Dear Chairman Kennard:

I am writing about an issue that greatly concerns me and the public broadcasting stations in my state.

As a conferee to the Balanced Budget Act (BBA) of 1997's commerce provisions, my colleagues and I crafted legislative language authorizing the FCC to auction broadcast licenses. During that process we were mindful of the interests of public broadcasters and their inability to compete at auction for licenses. I am concerned by the FCC's interpretation of the BBA provisions. The NPRM adopted November 25, 1997 disregards, perhaps unintentionally, the potentially significant impact this proposal will have on public radio and television stations alike.

Specifically, the Commission has proposed the use of auctions to decide among mutually-exclusive applications for non-reserved broadcast frequencies — whether or not one or more of the applicants is a public broadcaster. Section 3002(a)(2)(C) of the BBA prohibits the use of auctions when a public broadcaster files an application for a license to construct and operate a new or modified noncommercial educational broadcast station, regardless of whether the station is on a reserved or non-reserved frequency.

Obviously, most non-reserved frequencies will be closed to public broadcasters if they must compete in auctions, since public broadcasters lack the substantial resources necessary to compete in auctions. Many communities that we represent have the potential to be affected by this proposal. In the case of public radio in Alaska there are 12 stations located on the non-reserved FM band or the AM band, where there are few reserved FM frequencies because of military or common carrier use of the frequencies at the lower end of the spectrum.

Applying for frequencies outside the reserved band is often essential to extend and maintain noncommercial, educational broadcast services (especially FM translator services). Public radio stations that are forced to relocate current FM translators to a frequency outside of the reserved band because of interference to a new full-service station would be subject to auctions merely to maintain existing service. In the case of public television, there are no reserved channels for TV translators. Therefore, any application by a public television station for a TV translator to extend service to a rural area or to maintain service lost when a translator is forced to relocate would be subject to auctions. This will most immediately apply to the public television translators located on channels 60 to 69 that will be required to relocate under the Commission's recently adopted digital television order. In addition, many public television stations hold ITFS licenses; these entities would be subject to auctions in order to expand these important educational services.

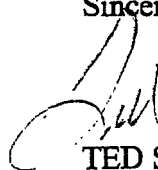
In addition, the rationale underlying auctions — those who value the spectrum most will bid the most — does not apply to public broadcasters, who are charged with the public interest mission of serving unserved and underserved audiences through programming that, in most cases, the marketplace would not readily support.

Finally, because the FCC has not yet considered comparative hearings or other criteria to license the reserved spectrum, which the FCC recognizes to be exempt from the auction requirement, public broadcasters are effectively denied access to any spectrum for the foreseeable future.

I urge the FCC to reconsider its proposals to reflect the intent of Congress that spectrum policy should not disenfranchise public broadcasting.

Thank you for your consideration.

Sincerely,



TED STEVENS

cc: Commissioner Susan Ness  
Commissioner Harold Furchgott-Roth  
Commissioner Michael Powell  
Commissioner Gloria Tristani  
Ms. Magalie Roman Salas, Secretary, FCC

JOHN MCCAIN, ARIZONA, CHAIRMAN

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RON WYDEN, OREGON

# United States Senate

COMMITTEE ON COMMERCE, SCIENCE,  
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

JOHN RAIST, STAFF DIRECTOR  
WAN A. SCHLAGER, DEMOCRATIC CHIEF COUNSEL AND STAFF DIRECTOR

June 24, 1998

The Honorable William E. Kennard  
Chairman  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, DC 20554

Dear Chairman Kennard:

I am writing about an issue that greatly concerns me and the public broadcasting system. As a conferee to the Balanced Budget Act (BBA) of 1997's commerce provisions, my colleagues and I crafted legislative language authorizing the FCC to auction broadcast licenses. During that process we were mindful of the interests of public broadcasters and interpretation of the BBA provisions. The NPRM adopted November 25, 1997 disregards, perhaps unintentionally, the potentially significant impact this proposal will have on public radio and television stations alike.

Specifically, the Commission has proposed the use of auctions to decide among mutually-exclusive applications for non-reserved broadcast frequencies -- whether or not one or more of the applicants is a public broadcaster. Section 3002(a)(2)(C) of the BBA prohibits the use of auctions when a public broadcaster files an application for a license to construct a new or modified noncommercial educational broadcast station, regardless of whether the station is on a reserved or non-reserved frequency.

Obviously, most non-reserved frequencies will be closed to public broadcasters if they must compete in auctions, since public broadcasters lack the substantial resources necessary to compete in auctions. Many communities that I represent have the potential to be affected by this proposal.

Applying for frequencies outside the reserved band is often essential to extend and maintain noncommercial, educational broadcast services (especially FM translator services). Public radio stations that are forced to relocate current FM translators to a frequency outside of the reserved band because of interference to a new full-service station would be subject to auctions merely to maintain existing service. In the case of public television, there are no reserved channels for TV translators. Therefore, any application by a public television

- 2 -

station for a TV translator to extend service to a rural area or to maintain service lost when a translator is forced to relocate would be subject to auctions.

This will most immediately apply to the public television translators located on channels 60-69 that will be required to relocate under the Commission's recently adopted digital television order. In addition, many public television stations hold ITFS licenses; these entities would be subject to auctions in order to expand these important educational services.

In addition, the rationale underlying auctions -- those who value the spectrum most will bid the most -- does not apply to public broadcasters, who are charged with the public interest mission of serving unserved and under served audiences through programming that, in most cases, the marketplace would not readily support.

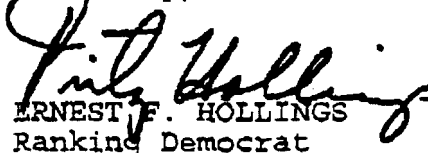
Finally, because the FCC has not yet considered comparative hearings or other criteria to license the reserved spectrum, which the FCC recognizes to be exempt from the auction requirement, public broadcasters are effectively denied access to any spectrum for the foreseeable future.

I urge the FCC to reconsider its proposals to reflect the intent of Congress that spectrum policy should not disenfranchise public broadcasting.

Thank you for your consideration.

With kindest regards, I am

Sincerely,

  
ERNEST F. HOLLINGS  
Ranking Democrat

cc: The Honorable Susan Ness  
The Honorable Harold Furchtgott-Roth  
The Honorable Michael Powell  
The Honorable Gloria Tristani

EX PARTE OR LATE FILED

RON WYDEN  
OREGON717 Hart Senate Building  
Washington, DC  
20510-3703  
(202) 224-5244e mail  
senator@wyden.senate.govweb site:  
www.senate.gov/~wyden/

United States Senate

WASHINGTON, DC 20510-3703

June 22, 1998

Honorable William Kennard  
Chairman, Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

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RE: MM DOCKET No. 97-234  
GC DOCKET 92-52  
GEN DOCKET 90-264

AUG 2 1 1998

## Committees:

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## Oregon State Offices:

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Suite 210  
La Grande, OR 97850  
(541) 962-7691U.S. Courthouse  
310 West 6th St  
Room 118  
Medford, OR 97501  
(541) 858-5122The Jamison Building  
131 NW Hawthorne Ave  
Suite 107  
Bend, OR 97701  
(541) 330-9142707 19th St SE  
Suite 285  
Salem, OR 97301  
(503) 589-4555FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Chairman Kennard:

I write about an issue that greatly concerns me and the public broadcasting stations in my state, which is the FCC's interpretation of the Balanced Budget Act provisions authorizing auctions. The NPRM adopted November 25, 1997 disregards, perhaps unintentionally, the potentially significant impact this proposal will have on public radio.

Specifically, the Commission has proposed the use of auctions to decide among mutually-exclusive applications for non-reserved broadcast frequencies - whether or not one or more of the applicants is a public broadcaster. However, Section 3002(a)(2)(C) of the BBA prohibits the use of auctions when a public broadcaster files an application for a license to construct and operate a new or modified noncommercial educational broadcast station, regardless of whether the station is on a reserved or non-reserved frequency.

Most non-reserved frequencies will be closed to public broadcasters if they must compete in auctions, since public broadcasters lack the substantial resources necessary to compete.

Applying for frequencies outside the reserved band is often essential to extend and maintain noncommercial, educational broadcast services (especially FM translator services). Public radio stations that are forced to relocate current FM translators to a frequency outside of the reserved band because of interference from a new full-service station would be subject to auctions merely to maintain existing service. Furthermore, in the case of public radio in Oregon, there are currently 2 stations located on the AM band, where there are no reserved noncommercial frequencies. These stations could be subject to auctions if they seek to make major modifications to their facilities.

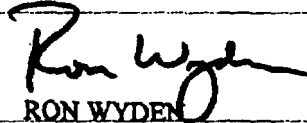
The rationale underlying auctions -- those who value the spectrum most will bid the most -- does not apply to public broadcasters, who are charged with the public interest mission of serving unserved and underserved audiences through programming that, in most cases, the marketplace would not readily support.

Finally, because the FCC has not yet adopted new rules for comparative hearings or other criteria to license the reserved spectrum, which the FCC recognizes to be exempt from the auction requirement, public broadcasters are effectively denied access to any spectrum for the foreseeable future.

I urge the FCC to reconsider its proposals to reflect the intent of Congress that spectrum policy should not disenfranchise public broadcasting.

Thank you for your consideration.

Sincerely,



RON WYDEN  
United States Senator

cc: Commissioner Susan Ness  
Commissioner Harold Furchgott-Roth  
Commissioner Michael Powell  
Commissioner Gloria Tristani  
Ms. Magalie Roman Salas, Secretary, FCC